

Senate Study Bill 3175 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act requiring recording of claims involving mineral rights
2 in real estate owned by another person and providing for
3 loss of mineral rights if a claim is not timely recorded.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

GENERAL

Section 1. NEW SECTION. **614.24A Requirement for recording interest in minerals — timely recording.**

1. As used in this section, unless the context otherwise requires:

a. "Interest in minerals" means a perpetual interest in real estate granting ownership of one or more minerals in the real estate to a person other than the person who owns the remainder of the real estate in which the minerals are located. *"Interest in minerals"* does not include a lease of real estate that allows the tenant to remove minerals from the real estate.

b. "Mineral" means coal, gas, oil or other gaseous, liquid, or solid hydrocarbons; oil shale; gemstones; fissionable or nonfissionable ore; and steam or other geothermal resources.

2. *a.* An action based upon any claim by a person to an interest in minerals in real estate owned by another person, which interest in minerals was created prior to July 1, 1994, shall not be maintained either at law or in equity in any court to enforce or recover such interest in minerals against the holder of the record title to such real estate in possession, unless the person claiming the interest in minerals files a verified claim with the recorder of the county where the real estate is located not later than June 30, 2015.

b. An action based upon any claim by a person to an interest in minerals in real estate owned by another person, which interest in minerals was created on or after July 1, 1994, shall not be maintained either at law or in equity in any court to enforce or recover such interest in minerals against the holder of the record title to such real estate in possession after twenty-one years from the recording of the instrument creating the interest in minerals or within twenty-one years after filing the last verified claim, unless the person claiming the interest in minerals files a verified claim with the recorder of the county where the real estate is located

1 within that twenty-one year period.

2 *c.* If the interest in minerals is separately listed and
3 assessed by an assessor for property taxation purposes, the
4 provisions of paragraph "a" or "b" requiring the filing of a
5 verified claim shall not apply to the interest in minerals so
6 listed and assessed for so long as the interest in minerals
7 remains listed and assessed as a separate tax parcel. At such
8 time as the assessor may cease to separately list and assess
9 the interest in minerals, the person claiming such interest in
10 the minerals must file a verified claim by not later than the
11 latest of the following:

12 (1) Twenty-one years after the date of recording of the
13 instrument creating the interest in minerals.

14 (2) Twenty-one years after the date of filing the last
15 verified claim.

16 (3) December 31 of the year after the year the interest in
17 minerals is no longer listed and assessed as a separate tax
18 parcel.

19 3. The claimant may be any person claiming an interest in
20 minerals, regardless of whether that interest in minerals is a
21 present interest or an interest that would come into existence
22 if the happening or contingency provided in the instrument
23 creating the interest in minerals were to happen at once. A
24 claimant also may be any member of a class of persons entitled
25 to claim such interest.

26 4. A verified claim must comply with all of the following:

27 *a.* Be filed by the claimant personally or by the claimant's
28 attorney or agent. However, if the claimant is a minor or
29 under legal disability, the verified claim may be filed by the
30 claimant's guardian, custodian, parent, or next friend.

31 *b.* Identify the name and address of the person claiming
32 the interest in minerals, the nature of the interest, the
33 instrument creating the interest, together with dates of
34 execution and recording of the instrument, the instrument
35 number provided in the records of the recorder as provided in

1 section 331.606B, and the legal description of the real estate
2 subject to the interest in minerals.

3 *c.* Certify that the verified claim was delivered by
4 certified mail or personal delivery to the record owner of the
5 real estate where the minerals are located. If the verified
6 claim is sent by certified mail it will be sufficient if it is
7 mailed to the address of the record owner of the real estate
8 where the minerals are located that is shown in the records of
9 the assessor who assesses such real estate for taxation.

10 5. This section shall not be construed to do any of the
11 following:

12 *a.* Revive or extinguish an interest in coal, including
13 but not limited to a mineral interest in coal as provided in
14 chapter 557C.

15 *b.* Impair the validity of an environmental covenant
16 established pursuant to chapter 455I.

17 *c.* Revive an interest in minerals that has expired or been
18 terminated under the terms of the instrument creating such
19 interest in minerals.

20 *d.* Bar or extinguish any right to remove gravel, limestone,
21 or sand of such right.

22 DIVISION II

23 CONFORMING AMENDMENTS

24 Sec. 2. Section 614.25, Code 2014, is amended to read as
25 follows:

26 **614.25 Effect of filing claim.**

27 The filing of ~~such~~ a claim under section 614.24 or 614.24A
28 shall extend for a further period of twenty-one years the
29 time within which ~~such~~ an action may be brought by any person
30 entitled ~~thereto~~ to bring such action, and successive claims
31 for further like extensions may be filed.

32 Sec. 3. Section 614.26, Code 2014, is amended to read as
33 follows:

34 **614.26 Indexing.**

35 The provisions of section 614.18 are made applicable to the

1 provisions of sections 614.24 ~~to~~ through 614.28.

2 Sec. 4. Section 614.27, Code 2014, is amended to read as
3 follows:

4 **614.27 Persons under disability.**

5 The provisions of section 614.8 as to the rights of minors
6 and persons with mental illness shall not be applicable against
7 the provisions of sections 614.24 ~~to~~ through 614.28.

8 Sec. 5. Section 614.28, Code 2014, is amended to read as
9 follows:

10 **614.28 Barred claims.**

11 The provisions of sections 614.24 ~~to~~ through 614.27,
12 ~~inclusive,~~ or the filing of a claim ~~or claims, hereunder under~~
13 those sections, shall not revive or permit an action to be
14 brought or maintained upon any claim or cause of action ~~which~~
15 that is barred by any other statute. ~~Provided further, that~~
16 ~~nothing contained in these sections shall affect litigation~~
17 ~~pending on July 4, 1965.~~

18 **EXPLANATION**

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 **GENERAL.** This bill provides for the reservation of a right
22 to bring a claim in district court involving an interest in
23 one or more minerals underlying the surface of real estate to
24 which another person holds record title. The bill does not
25 revive or extinguish an interest in coal (Code chapter 557C),
26 impair the validity of an environmental covenant (Code chapter
27 455I), revive an interest in minerals that has expired or been
28 terminated, or bar a right to remove gravel, limestone, or sand
29 in some circumstances.

30 **RIGHTS BASED ON WHEN INTEREST WAS CREATED.** The bill provides
31 for two different circumstances: (1) an interest in minerals
32 created prior to July 1, 1994, or (2) an interest in minerals
33 created on or after that date. In the first circumstance,
34 the person must file a verified claim with the appropriate
35 county recorder by June 30, 2015. In the second circumstance,

1 the person must file a verified claim with the appropriate
2 county recorder within 21 years from the recording of the
3 instrument creating the interest in minerals or within 21 years
4 after filing the last verified claim. However, one exception
5 applies in both circumstances: when an interest in minerals
6 is separately listed and assessed by an assessor for property
7 taxation purposes. A verified claim is not required to be
8 filed until the assessor ceases to separately list and assess
9 the interest in minerals. In that case, the person must file
10 the verified claim by the later of 21 years after the date of
11 recording of the instrument, 21 years after the date of filing
12 the last verified claim, or December 31 of the year after the
13 year the interest in minerals is no longer listed and assessed
14 as a separate tax parcel.